

2009 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB365)

Received: **09/29/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Anthony Staskunas (608) 266-0620**

By/Representing: **Eric Hanson**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Testimony of victim at revocation hearing

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	rryan	wjackson	phenry	_____	sbasford	sbasford	
	09/29/2009	09/29/2009	09/30/2009	_____	09/30/2009	09/30/2009	

FE Sent For:

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09/29/2009 04:28:28 PM

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rryan

09/29/2009

lrb editor

1 WJ 9/29

9/30
ph

9/30
Phill

FE Sent For:

<END>

Ryan, Robin

From: Hanson, Eric
Sent: Tuesday, September 29, 2009 2:56 PM
To: Ryan, Robin
Subject: FW: AB 365 Proposal

Attachments: 0440/P1

Robin—

Below is the Leg. Council version of a Sub that we would like drafted to AB365. Let me know if you have any questions.

Thanks,

Eric Hanson
Office of Rep. Staskunas
608-266-0620

From: Dyke, Don
Sent: Monday, September 21, 2009 2:56 PM
To: Hanson, Eric
Subject: AB 365 Proposal

Eric,
The preliminary draft amendment to AB 365 is attached.
Don

From: Young, Tracey
Sent: Monday, September 21, 2009 2:44 PM
To: Dyke, Don
Subject:



0440P1.pdf (11 KB)

Tracey Young
Legislative Council Staff
1 East Main St., Suite 401
Madison, WI 53701
608-266-7676
tracey.young@legis.wisconsin.gov

DD:ty

09/14/2009

PRELIMINARY

ASSEMBLY SUBSTITUTE AMENDMENT , TO 2009 ASSEMBLY BILL 365

AN ACT *to create* 302.113 (9) (em) of the statutes; **relating to:** testimony of a felony victim and a probation, parole, or extended supervision revocation hearing.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 302.113 (9) (em) of the statutes is created to read:

302.113 (9) (em) 1. If a felony victim who testified at a preliminary hearing regarding the felony is subpoenaed to testify at an administrative hearing held under par. (a) to determine whether a person on extended supervision violated the conditions of extended supervision by committing the felony, the felony victim may request that his or her testimony at the administrative hearing not be taken in the presence of the subject of the hearing. Following such a request, if the administrative law judge determines that there is a substantial likelihood that the felony victim will suffer significant psychological or emotional trauma if he or she testifies in the presence of the subject of the administrative hearing or that there is a substantial likelihood that the felony victim will not be able to give effective, truthful testimony in the presence of the subject of the hearing, the administrative law judge shall make arrangements to take the testimony of the felony victim outside the presence of the subject of the hearing, with opportunity for the subject of the hearing to ask questions of the felony victim.

2. The administrative law judge shall give the subject of the hearing an opportunity on the record to oppose any arrangement to have the felony victim testify outside the presence of the subject of the hearing before the testimony is taken. The administrative law judge shall indicate on the record that the testimony of the felony victim has been taken outside the presence of the subject of the administrative hearing and the rationale of the administrative law judge for ordering the testimony to be taken in this manner.

COMMENT: Corresponding language should be provided for ss. 302.114 (9) (dm), 304.06 (3) (b), and 973.10 (2r), stats. These will comprise SECTIONS 2, 3, and 4 of the substitute amendment.

SECTION 2. Initial applicability.

(1) This act first applies to administrative hearings that are held on the effective date of this subsection.

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0136/1

RLR: / :...

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Wed. by 9:30 Am

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2009 ASSEMBLY BILL 365

Gen Cat

1 AN ACT ...; relating to: testimony of a felony victim at a probation, parole, or
2 extended supervision revocation hearing.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 302.113 (9) (em) of the statutes is created to read:

4 302.113 (9) (em) 1. If a felony victim who testified at a preliminary hearing
5 regarding the felony is subpoenaed to testify at an administrative hearing held
6 under par. (am) to determine whether a person on extended supervision violated the
7 conditions of extended supervision by committing the felony, the felony victim may
8 request that his or her testimony at the administrative hearing be taken outside the
9 presence of the person. Following such a request, if the hearing examiner determines
10 that there is a substantial likelihood that the felony victim will suffer significant
11 psychological or emotional trauma if the felony victim testifies in the presence of the
12 person or that there is a substantial likelihood that the felony victim will not be able

1 to give effective, truthful testimony in the presence of the person, the hearing
2 examiner shall, subject to subd. 2., make arrangements to take the testimony of the
3 felony victim outside the presence of the person, with opportunity for the person to
4 ask questions of the felony victim.

5 2. The hearing examiner shall give the person an opportunity on the record to
6 oppose any arrangement to have the felony victim testify outside the presence of the
7 person before the testimony is taken.

8 3. If testimony is taken outside the presence of the person ~~under this~~
9 ~~paragraph~~, the hearing examiner shall indicate on the record that the testimony of
10 the felony victim has been taken outside the presence of the person and the rationale
11 of the hearing examiner for ordering the testimony to be taken in this manner.

12 SECTION 2. 302.114 (9) (dm) of the statutes is created to read:

13 302.114 (9) (dm) 1. If a felony victim who testified at a preliminary hearing
14 regarding the felony is subpoenaed to testify at an administrative hearing held
15 under par. (am) to determine whether a person on extended supervision violated the
16 conditions of extended supervision by committing the felony, the felony victim may
17 request that his or her testimony at the administrative hearing be taken outside the
18 presence of the person. Following such a request, if the hearing examiner determines
19 that there is a substantial likelihood that the felony victim will suffer significant
20 psychological or emotional trauma if the felony victim testifies in the presence of the
21 person or that there is a substantial likelihood that the felony victim will not be able
22 to give effective, truthful testimony in the presence of the person, the hearing
23 examiner shall, subject to subd. 2., make arrangements to take the testimony of the
24 felony victim outside the presence of the person, with opportunity for the person to
25 ask questions of the felony victim.

1 2. The hearing examiner shall give the person an opportunity on the record to
2 oppose any arrangement to have the felony victim testify outside the presence of the
3 person before the testimony is taken.

4 3. If testimony is taken outside the presence of the person, ^{under this paragraph} ~~under this~~
5 ~~paragraph~~, the hearing examiner shall indicate on the record that the testimony of
6 the felony victim has been taken outside the presence of the person and the rationale
7 of the hearing examiner for ordering the testimony to be taken in this manner.

8 **SECTION 3.** 304.06 (3b) of the statutes is created to read:

9 304.06 (3b) (a) If a felony victim who testified at a preliminary hearing
10 regarding the felony is subpoenaed to testify at an administrative hearing under sub.
11 (3) to determine whether a parolee violated a rule or condition of parole by
12 committing the felony, the felony victim may request that his or her testimony at the
13 administrative hearing be taken outside the presence of the parolee. Following such
14 a request, if the hearing examiner determines that there is a substantial likelihood
15 that the felony victim will suffer significant psychological or emotional trauma if the
16 felony victim testifies in the presence of the parolee or that there is a substantial
17 likelihood that the felony victim will not be able to give effective, truthful testimony
18 in the presence of the parolee, the hearing examiner shall, subject to par. (b), make
19 arrangements to take the testimony of the felony victim outside the presence of the
20 parolee, with opportunity for the parolee to ask questions of the felony victim.

21 (b) The hearing examiner shall give the parolee an opportunity on the record
22 to oppose any arrangement to have the felony victim testify outside the presence of
23 the parolee before the testimony is taken.

24 (c) If testimony is taken outside the presence of the parolee, ^{under this subsection} ~~under this~~
25 ~~subsection~~, the hearing examiner shall indicate on the record that the testimony of

1 the felony victim has been taken outside the presence of the parolee and the rationale
2 of the hearing examiner for ordering the testimony to be taken in this manner.

3 **SECTION 4.** 973.10 (2r) of the statutes is created to read:

4 973.10 (2r) (a) If a felony victim who testified at a preliminary hearing
5 regarding the felony is subpoenaed to testify at an administrative hearing under sub.
6 (2) to determine whether a probationer violated the conditions of his or her probation
7 by committing the felony, the felony victim may request that his or her testimony at
8 the administrative hearing be taken outside the presence of the probationer.
9 Following such a request, if the hearing examiner determines that there is a
10 substantial likelihood that the felony victim will suffer significant psychological or
11 emotional trauma if the felony victim testifies in the presence of the probationer or
12 that there is a substantial likelihood that the felony victim will not be able to give
13 effective, truthful testimony in the presence of the probationer, the hearing examiner
14 shall, subject to par. (b), make arrangements to take the testimony of the felony
15 victim outside the presence of the probationer, with opportunity for the probationer
16 to ask questions of the felony victim.

17 (b) The hearing examiner shall give the probationer an opportunity on the
18 record to oppose any arrangement to have the felony victim testify outside the
19 presence of the probationer before the testimony is taken.

20 (c) If testimony is taken outside the presence of the parolee, ^{under this subsection} ~~under this~~
21 ~~subsection~~ ^{subsection}, the hearing examiner shall indicate on the record that the testimony of
22 the felony victim has been taken outside the presence of the probationer and the
23 rationale of the hearing examiner for ordering the testimony to be taken in this
24 manner.

25 **SECTION 5. Initial applicability.**

1 (1) This act first applies to administrative hearings that are held on the
2 effective date of this subsection.

3 (END)